

MEMORANDUM OF LAW

DATE: December 8, 1986

TO: Charles G. Abdelnour, City Clerk

FROM: City Attorney

SUBJECT: Market Street Initiative

By memorandum of November 21, 1986, you point out that The Keep Market Street Committee has an error on their pending petition wherein they have identified Iona Drive as "Iona Way." While we understand that there is no "Iona Way" and that this error has been corrected, you ask a series of questions directed to the current validity of the petition.

As to the current validity of the petition recognizing that an undetermined amount of signers signed a petition with a location error, we believe the petition is still valid. The general rule is that the initiative power is to be broadly and liberally construed. *Associated Home Builders Etc., Inc. v. City of Livermore*, 18 Cal.3d 582, 596 (1976). Further clerical and technical errors may be disregarded. *McQuillin, Municipal Corporations* Sec. 16.59 (3rd Ed. 1981). Lastly, San Diego Municipal Code section 27.2513 authorizes the Clerk to accept the petition that is in "substantial compliance." Given these three (3) factors, we believe this error is a technical defect that does not materially affect the validity of the petition.

To answer the last two questions, we believe future reprints of the petitions should use the corrected language since the error has now been discovered although the corrected language need not be republished. We take this position because substantial compliance as to notice of the petition is specifically referenced (San Diego Municipal Code section 27.2513 referring to 27.2504 Notice of Intention) and the important language is that which appears on the ballot and not the petition. *McQuillin, supra* at Sec. 16.60; *Fox Etc. Corp. v. City of Bakersfield*, 36 Cal.2d 136, 145 (1950).

Therefore you may properly evaluate petitions containing the designation "Iona Way."

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

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